



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 4317-00

20 July 2000

LTCOL [REDACTED] USMCR  
[REDACTED]  
[REDACTED]

Dear Col [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 16 June 2000, a copy of which is attached. They also considered your rebuttal letter dated 9 July 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Specifically regarding the contested fitness report for 17 October to 17 December 1999, the Board found no inconsistency between the reviewing officer (RO) comment "[You are] operating at [your] potential" and his recommendation for your promotion. Concerning both reports at issue, the Board noted that the reporting senior (RS), a civilian GS-15, and the RO, a colonel, were not of the same grade, so the requirement of Marine Corps Order P1610.7E, paragraph 2010.4.c for the RO to indicate the authority source "When the RO is the same grade as the RS" did not apply. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this

regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

4317-00  
IN REPLY REFER TO:  
1610  
MMER/PERB  
16 JUN 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
LIEUTENANT COLONEL [REDACTED] USMCR

Ref: (a) LtCol [REDACTED] Forms 149 of 23 Dec 99 and 18 Feb 00  
(b) MCO P1610.7E  
(c) MCO P1610.7E w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 12 June 2000 to consider Lieutenant Colonel [REDACTED] petitions contained in reference (a). Action as indicated was requested on the following fitness reports:

a. Report A - 990314 to 990521 (RT) -- Modification of Section K. Reference (b) applies.

b. Report B - 991017 to 991217 (RT) -- Removal in its entirety. Reference (c) applies.

2. Concerning Report A, the petitioner contends that the Reviewing Officer's marks/comments are inconsistent and that he (the Reviewing Officer) failed to adhere to the provisions of subparagraph 4104.2d of reference (b). Relative to Report B, the petitioner again argues inconsistency between marks and comments within the report, and believes that given the highly visible billet which he held, he rated more than a mark of "B" in Block D2 of the report. The petitioner also states that the Reporting Senior failed to comply with reference (c) by not including comments in Section I. As a final matter, the petitioner believes that certain comments made by the Reviewing Officer render the report "adverse", and that although not an invalidating factor, the late submission of the report represents yet another area of concern.

3. In its proceedings, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. In Report A, the Reviewing Officer clearly indicated his degree of observation was sufficient (i.e., to the degree that he had enough knowledge to concur with the Reporting Senior's

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LIEUTENANT COL [REDACTED] USMCR

overall evaluation). Colonel [REDACTED] mark in Item K3 is not viewed as contradictory to his subsequent comments in Item K4. Potential in K3 applies to the petitioner's overall professional value and potential; it is not construed to equate to whether the petitioner is more suited for staff or command assignments, or whether he would serve better in a base/station billet vice the FMF.

b. Given the relatively short period covered by Report A, and the reality of a member of the IRR (Individual Ready Reserve) performing active duty, the Reviewing Officer appears to have been proper and candid when he said he could not assess potential for command and PME. Those comments are not viewed as lessening the petitioner's efforts or diminishing his potential career growth.

c. It is stated in subparagraph 5a(4) of the cover letter appended to reference (c) that the visible marking gradient of those attributed in Sections D through H of the fitness report are built on the presumption of the inherent high quality of our Marines. That high quality begins from the left at gradient "B" and progresses to the right to the truly extraordinary level of performance at gradients "F" and "G." contrary to the petitioner's contention, level "B" and "C" gradients are not reflective of deviant or unworthy performance. Additionally, the petitioner fails to substantiate, with documentary evidence, precisely how he rated anything other than what has been recorded in Report B.

d. While the petitioner is correct that the Reporting Senior did not include comments in Section I of Report B, that omission is not viewed as an invalidating factor. This is especially germane given the short period of observation.

e. There is nothing in reference (c) that directs reporting officials to confine their verbiage to the past tense rather than the present. Regardless of writing style, and absent any proof to the contrary, it must be presumed that Colonel [REDACTED] Reviewing Officer comments (Report B) pertain to that actual reporting period. Where the Reviewing Officer truly addresses the petitioner's future potential is in Item K3. Not only is there nothing "adverse" in Item K4, but the petitioner fails to corroborate how or why he should have been marked higher in Item K3.

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LIEUTENANT COLONEL R [REDACTED] USMCR

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A should remain as configured and Report B should not be removed.

5. The case is forwarded for final action [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
Colonel, U.S. Marine Corps  
Deputy Director  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps